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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,866	04/16/2001	Heinz Willebrand	69971	5585

22242 7590 07/08/2003

FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER

PHAN, HANH

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 07/08/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,866

Applicant(s)

WILLEBRAND, HEINZ

Examiner

Hanh Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is responsive to the Amendment filed 04/11/2003.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7-12, 15-19, 21-26 and 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumar et al (US Patent Application Publication No. 2002/0075542).

Regarding claims 1, 3, 7, 17, 23 and 25, referring to Figures 4 and 8, Kumar teaches a method of managing a free-space optical network, comprising the steps of:

directing network data traffic (430)(Fig. 4) over one or more free-space optical links (410, 420)(i.e., multi-medium interface such as RF wireless unit and free-space optics unit) in the free-space optical network (see pages 3 and 4, paragraph [0041], and page 5, paragraph [0050]);

monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see page 5, paragraph [0053] and page 6, paragraph [0054]); and

determining whether or not there is more than one alternate communication path available and routing the network data traffic through an alternate communication path in response to data obtained from the step of monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see page 10, paragraph [0088]).

Regarding claims 2, 16 and 24, Kumar further teaches wherein the alternate communication path comprises a communication path that is not adversely affected by the one or more environmental conditions (page 10, paragraph [0088]).

Regarding claims 4, 18 and 21, Kumar further teaches wherein the alternate communication path comprises a radio frequency (RF) communication path (see pages 3 and 4, paragraph [0041], and page 5, paragraph [0050]).

Regarding claims 5 and 19, Kumar further teaches wherein the alternate communication path comprises a fiber optic communication path (Fig. 4).

Regarding claims 8, 22 and 26, Kumar further teaches rerouting the network data traffic over the one or more free-space optical links in the free-space optical network in response to additional data obtained from monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (page 10, paragraph [0088]).

Regarding claims 9-12, Kumar further teaches collecting data indicative of at least one of the one or more environmental conditions with an instrument located in the vicinity of the at least one of the one or more free-space optical links (see pages 5 and 6, paragraphs [0053] and [0054] and page 10, paragraph [0088]).

Regarding claim 15, Kumar further teaches a method of managing a free-space optical network, comprising the steps of:

directing network data traffic (430)(Fig. 4) over one or more free-space optical links in the free-space optical network;

monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see page 5, paragraph [0053] and page 6, paragraph [0054]);

attempting to adjust one or both of a transmission power and receive sensitivity of one or more of the free-space optical links in response to data obtained from the step of monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see pages 5 and 6, paragraphs [0051] to [0054]); and

routing the network data traffic through an alternate communication path in response to a failure in the step of attempting to adjust (see page 10, paragraph [0088]).

Regarding claims 31-34, Kumar further teaches selecting the alternate communication path (Fig. 8, page 5, paragraphs [0051]-[0053], page 6, paragraph [0054]), page 10, paragraph [0088]);

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al (US Patent Application Publication No. 2002/0075542).

Regarding claims 6 and 20, it would have been obvious to obtain alternate communication path comprises a wire communication path in order to allow the data can be freely transmitted through the alternate paths in the optical data transmission.

6. Claims 13, 14 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al (US Patent Application Publication No. 2002/0075542) in view of Bae (US Patent No. 5,790,286).

Regarding claims 13, 14 and 27-30 Kumar differs from claims 13, 14 and 27-30 in that he fails to teach sending a alarm over the free-space optical network in response to the data indicative of at least one of of the one or more environmental conditions. However, Bae teaches sending a alarm over the optical network in response to the data indicative of at least one of of the one or more environmental conditions. Bae does not teach sending a alarm over the free-space optical network (see Fig. 3, col. 4, lines 12-67 and col. 5, lines 42). However, it would have been obvious to obtain sending a alarm over the free-space optical network in order to eliminate the wire connection, reduce size, weight of device and make device is portable. Therefore, it would have been obvious to one having skill in the art the time the invention was made to incorporate the sending a alarm over the optical network as taught of Bae in the system of Kumar. One skill in the art would have been motivated to do this since Bae suggests

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in column 4, lines 61-67 and col. 5, lines 1-61 that using such sending a alarm over the optical network would allow the data can be freely transmitted by embodying the duplication of paths in the optical data transmission (col. 5, lines 44-47).

7. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (703)306-5840.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703)305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



Hanh Phan

06/27/2003